

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Alfred W. Cash,

Plaintiff,

v.

Chuck Wright, Sheriff of Spartanburg County;
Major Freeman; Captain Hayes; Deputy Ellis;
and Deputy Johnson,

Defendants.

C/A No. 6:18-2675-CMC

OPINION AND ORDER

Alfred W. Cash (“Plaintiff”), proceeding *pro se* and *in forma pauperis*, brought this action against Chuck Wright, Sheriff of Spartanburg County; Major Freeman; Captain Hayes; Deputy Ellis; and Deputy Johnson (collectively “Defendants”) alleging unconstitutional conditions of confinement at the Spartanburg County Detention Center (“SCDC”) where he was a federal pretrial detainee. ECF Nos. 1, 25. This matter is before the court on Defendants Freeman, Hayes, and Wright’s motion for summary judgment (ECF No. 41) and Defendants Ellis and Johnson’s motion to dismiss for failure to state a claim (ECF No. 67). Because Plaintiff is proceeding *pro se*, the Magistrate Judge entered orders pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of the motions and the need to file adequate responses. ECF Nos. 43, 68. Plaintiff filed responses to the motions. ECF Nos. 45, 74, 76. Defendants Freeman, Hayes, and Wright filed a reply. ECF No. 48.

On September 13, 2019, the Magistrate Judge issued a Report and Recommendation (“Report”), recommending Defendants’ motions to dismiss and for summary judgment be granted. ECF No. 77. The Magistrate Judge advised the parties of the procedures and requirements for

filing objections to the Report and the serious consequences if they failed to do so. On October 4, 2019, Plaintiff filed objections to the Report. ECF No. 80. No Defendant filed a reply. This matter is ripe for the court's review.

I. Standard

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee's note).

II. Discussion

The Magistrate Judge recommends granting Defendants' motions. ECF No. 77. The Report concludes Plaintiff's claims against Defendants Wright, Freeman, and Hayes should be dismissed because Plaintiff failed to show his rights were violated, and those Defendants are entitled to qualified immunity for the same reason. *Id.* at 6- 9. As to Defendants Ellis and Johnson's motion to dismiss, the Report also recommends granting the motion because Plaintiff fails to allege any specific misconduct by them personally. *Id.* at 10.

Plaintiff asserts non-substantive objections to the Report, arguing this court is “supporting the defendants’ version of events. . . without an investigation as required in order to factually determine the issues.”¹ ECF No. 80 at 1. He contends because he was not granted an attorney he is deprived of “fair and equal justice.” *Id.* He argues he has requested records regarding the Spartanburg County jail via the Freedom of Information Act, but has not received the documents. *Id.* He requests the court “dismiss the Defendant’s motion for summary judgment and allow this case to proceed to court where he feels he will get an unbiased decision.” *Id.* at 2.

Plaintiff has offered no specific objections to the findings or conclusions of the Magistrate Judge’s Report. He merely disagrees with the Report. Although he states he has requested documents regarding the Spartanburg County Jail, he does not inform the court what documents were requested or how they might support his claims. He does not dispute the Report’s findings regarding any of his specific claims of violation of his rights regarding legal library access, food, medical care, or mold. Similarly, he alleges no specific actions by Defendants Ellis or Johnson. The Report’s conclusions are therefore reviewed for clear error. Finding none, the court adopts these portions of the Report and incorporates them by reference into this order. Summary judgment is granted to Defendants Wright, Freeman, and Hayes, and Defendants Ellis and Johnson’s motion to dismiss is granted.²

¹ It is not within the province of the court to conduct an investigation into Plaintiff’s claims: Plaintiff must provide evidence to support his claims.

² The court notes it would reach the same conclusion under *de novo* review, as Plaintiff has not shown violations of his constitutional rights or, assuming *arguendo* a violation, injury arising therefrom. Neither has he alleged specific actions of Defendants Ellis or Johnson.

III. CONCLUSION

Having conducted a review of the Report and underlying motion and related memoranda, and having fully considered Plaintiff's objections, the court adopts the Report and it is incorporated into this order. Defendants Wright, Freeman, and Hayes' motion for summary judgment and Defendants Ellis and Johnson's motion to dismiss (ECF Nos. 41, 67) are granted. Defendants Wright, Freeman, and Hayes are dismissed with prejudice, and Defendants Ellis and Johnson are dismissed without prejudice.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
October 23, 2019